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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,644	08/27/2003	Robert Aarts	800.0148.U1(US)	3885
29683 7590 12/28/2009 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212				
EXAMINER KIM, JUNG W				
ART UNIT 2432		PAPER NUMBER		
MAIL DATE 12/28/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,644

Applicant(s)

AARTS ET AL.

Examiner

JUNG KIM

Art Unit

2432

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-22 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 and 25-30 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to the RCE filed on 10/5/09.
2. Claims 1-4, 7-22 and 25-30 are pending.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/5/09 has been entered.

Response to Amendment

4. The claims as amended are directed to an invention whereby a "strictness level value" is assigned to a collection of privacy attributes. A usage policy that identifies constraints related to a user's data, also defines a strictness level value for the user. A privacy policy is assigned to a service provider, and this policy defines a strictness level value. When a broker receives a request by a service provider to receive data from a user, wherein the request includes a strictness level value, this strictness level value is compared with the user's strictness level value. The prior art discloses a similar invention; in particular, Koike and Bohrer discloses a broker to handle P3P requests

between a user and a service provider; Mitchell discloses associating a strictness level to a collection of privacy attributes for a user (see col. 10:10-15, which defines using a "sliding bar" to set one of six privacy settings). However, none of the prior art discloses the service provider defining a strictness level value and send the strictness level value in a request for user's data, wherein the strictness level value is associated with a collection of privacy attributes. See for example, pg. 12 of applicant's specification for an example. For these reasons, the subject matter of claims 1-4, 7-22 and 25-30 are not disclosed by the prior art of record.

Claim Objections

5. It is requested that review the amendments filed. On several occasions, the claims refer to a "strictness level parameter value" which appears to be contrary to Applicant's intended amendment for the claims. See, for example, the last lines of claims 12, 13, 18 and 19.

Claim Rejections - 35 USC § 101

6. Claims 1-4 and 7-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Under Bilski, a method claim is patent eligible only if it is tied to a particular machine, or there is a transformation of an article or a representation of an article. Claims 1-4 and 7-10 define a method where the steps are performed by a broker; however, the specification broadly defines a "broker" as "any network entity or an entity associated with the user being capable to represent

the user in the data transfer transaction." (pg. 6, paragraph 25) In addition, the specification identifies that a "user" can be a person or abstract entity. (See pg. 6, paragraph 24) Hence, a broker is not directed to a particular machine. Furthermore, there is no transformation of an article or representation of an article (the method only discloses "receiving" and "sending" messages) See *In re Bilski*, 2007-1130 at 15, ("At present, however, and certainly for the present case, we see no need for such a departure and reaffirm that the machine-or-transformation test, properly applied, is the governing test for determining patent eligibility of a process under § 101." The Court also points to the *Abele* case where a dependent process claim was determined to be statutory under 101 but not the independent claim; the dependent claim was a sufficiently specific transformation because it changed "raw data into a particular visual depiction of a physical object on a display"; the transformed object must be "physical objects or substances" or "representative of physical objects or substances," *id.* at 30 and 32).

7. Claim 11 defines a system comprising a service provider and a broker. On pgs. 5-6, the specification provides evidence that a "service provider" may be a person. ("Service provider may also be another end-user ... [t]he terms "user", "end-user" ... refer to a subject, such as a person, a company ..."); furthermore, as explained above, a "broker" is broadly defined such that a broker is not necessarily hardware. Hence, claim 11 is not directed to either a machine or manufacture. Also, claim 11 is not directed to either a method (it does not define any steps) nor is it a composition of

matter. Therefore, claim 11 is not directed to any of the four statutory categories of patent-eligible subject matter.

Allowable Subject Matter

8. Claims 12-22 and 25-30 are allowed. The subject matter of claims 1-4 and 7-11 are not disclosed nor suggested by the prior art of record.

Communications Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung W. Kim whose telephone number is 571-272-3804. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jung Kim/

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Primary Examiner, AU 2432